



Rule of Civil Procedure 12(b)(6), for failure to state a claim. ("Salem County Defs' Mot. to Dismiss", ECF No. 5.) Plaintiff filed a brief in opposition to the motion to dismiss on March 21, 2018. ("Pl's Brief in Opp. to the Salem County Defs' Mot. to Dismiss", ECF No. 9.)

On May 22, 2018, the Honorable Karen M. Williams, United States Magistrate Judge, granted Plaintiff's motion to file an amended complaint, directing that Plaintiff shall serve the amended complaint in accordance with the Federal Rules of Civil Procedure. (Order, ECF No. 22.) Plaintiff filed an Amended Complaint on May 28, 2018. (Am Compl., ECF No. 23.) According to the docket in this matter, the Amended Complaint has not been served on Defendants.

"Where a Plaintiff has filed an amended complaint in response to a pending motion to dismiss, 'a trial court has discretion to deny the [pending] motion as moot (thereby effectively requiring a new motion) or to consider the merits of the motion as applied to the amended complaint.'" Wilson v. Somerset County Prosecutor's Office, Civ. Action No. 15-6034(FLW), 2016 WL 1090811, at \*4 (D.N.J. Mar. 21, 2016) (quoting Rule 15 Amended and Supplemental Pleadings, 1 Federal Rules of Civil Procedure, Rules and Commentary Rule 15). If the Salem County Defendants choose to bring a motion to dismiss the Amended Complaint under Federal Rule of Civil Procedure 12(b)(6) in lieu of an answer, they may wish to raise

new issues, if appropriate. Therefore, the Court will dismiss the Salem County Defendants' pending motion to dismiss the original complaint as moot.

An appropriate Order follows.

s/Renée Marie Bumb

**RENÉE MARIE BUMB**

**United States District Judge**

Dated: August 15, 2018